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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/705,351	11/03/2000	Yuichi Ijiri	4296-125	6855
7590	07/02/2004		EXAMINER	
Mathews Collins Shephaerd & Gould PA 100 Thanet Circle Suite 306 Princeton, NJ 08540			FORD, JOHN K	
			ART UNIT	PAPER NUMBER
			3753	
			DATE MAILED: 07/02/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/705,351

Applicant(s)

Ijiri et al.

Examiner

John K. Ford

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3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/29/04
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 5, 9-12, 17-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1, 5, 9-12, 17-24 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

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The previous examiner, Mr. Atkinson, is no longer an employee of the PTO. This case has been re-assigned to the undersigned. Please address all future communications to the undersigned. The elected species and sub-species remains that of Figures 10 and 2 respectively: Claims 1, 5 and 9-12. In applicant's remarks, filed with the RCE, it suggests that Mr. Atkinson indicated that the amendments made here would place the case in condition for allowance. It appears counsel is mistaken here. In the two advisory actions mailed December 12, 2003 and January 14, 2004 there is no indication of allowability. The letter advisory clearly indicates new issues are raised which require further search. An examination of the file does not indicate any further searching was performed subsequent to July of 2003.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1, 5, 18 and 19 ~~are~~, drawn to a heat exchange apparatus with a vent for entrapped gases and /or a drain for sludge, classified in class 165, subclass 70 and 72.
- II. Claims 9-12, 17 and 20-24 ~~are~~, drawn to a method of using a heat exchanger to process certain claimed polymerizable substances using specific steps with regard flowing coolant through a vent or drain, classified in class 422, subclass -.

The inventions are distinct, each from the other because:

Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as

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claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus as claimed can be used to practice another and materially different such as using the vent and drain pipes to simply empty the shell of the heat exchanger or to insert cleaning tools into the shell (i.e. access ports). It is also evident that the apparatus can be used to temperature condition any two fluents, not necessarily the specific polymerizable substances claimed in claims 10, 12, 21 and 23. It is also evident that the apparatus can be used with either intermittent or constant flow of the second fluid as claimed in claims 17 and 24.

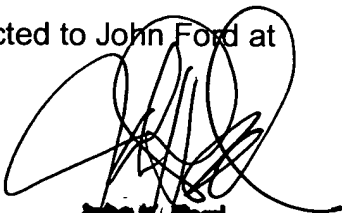
Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

In the event that Group II, is elected, please write claims 9 and 20 in independent form.

Any inquiry concerning this communication should be directed to John Ford at telephone number ⁷⁰³308-2636.


John K. Ford
Primary Examiner